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**JUL 09 2007**

**OFFICE OF PETITIONS**

In re Application of :  
Mawst et al. : DECISION ON APPLICATION  
Application No. 10/772,573 : FOR  
Filed: February 5, 2004 : PATENT TERM ADJUSTMENT  
Atty Docket No. 032026-0754 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR \$1.705(B)," filed April 30, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 0 to 12 days.

The application for patent term adjustment is **GRANTED to the extent indicated.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is ZERO (0) days, but with 0 days of Office delay and 73 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 2, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On April 30, 2007, applicants timely<sup>1</sup> submitted the instant application for patent term adjustment. Applicants dispute the reduction of 12 days associated with the filing of a response after final Office action filed January 24, 2007. Applicants point out that the Office action mailed November 24, 2006 restarted the period for

<sup>1</sup> The Issue Fee payment was also received on April 30, 2007.

response and their response was filed within three months of the mailing date of the subsequently issued Office action.

The record supports a conclusion that the application is not subject to a terminal disclaimer.

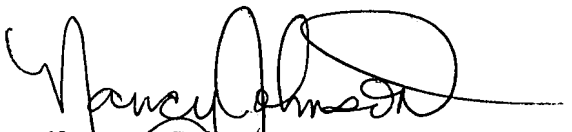
Applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), there was no applicant delay within the meaning of §1.704(b).

However, applicants' contention that the patent term adjustment should be 12 days instead of 0 days is incorrect. As of the mailing of the notice of allowance, there was no Office delay. This decision removes 12 days of applicant delay, resulting in an undisputed period of reduction of 73 days for applicant delay at the time of the mailing of the notice of allowance. In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 0 days (0 days of Office delay reduced by 73 days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

## PTA Calculations for Application: 10/772573

Application Filing Date:	02/05/2004	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	85
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	12		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	07/06/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	12		
51	02/02/2007	MAIL NOTICE OF ALLOWANCE			
50	02/01/2007	ISSUE REVISION COMPLETED			
49	02/01/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	02/01/2007	DOCUMENT VERIFICATION			
47	01/31/2007	NOTICE OF ALLOWABILITY			
46	01/29/2007	DATE FORWARDED TO EXAMINER			
45	01/24/2007	AMENDMENT AFTER FINAL REJECTION		12	42
44	11/24/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
43	11/13/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
42	10/12/2006	MAIL FINAL REJECTION (PTOL - 326)			
41	10/02/2006	FINAL REJECTION			
40	07/25/2006	DATE FORWARDED TO EXAMINER			
39	07/12/2006	RESPONSE AFTER NON-FINAL ACTION		64	37
38	07/12/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/09/2006	MAIL NON-FINAL REJECTION			
36	02/06/2006	NON-FINAL REJECTION			
35	12/29/2005	DATE FORWARDED TO EXAMINER			
34	12/19/2005	RESPONSE AFTER NON-FINAL ACTION		5	33
33	09/14/2005	MAIL NON-FINAL REJECTION			
32	08/26/2005	NON-FINAL REJECTION			
31	08/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	07/07/2005	DATE FORWARDED TO EXAMINER			
29	06/29/2005	RESPONSE AFTER NON-FINAL ACTION		4	28

28	03/25/2005	MAIL NON-FINAL REJECTION			
27	03/21/2005	NON-FINAL REJECTION			
26	01/24/2005	REFERENCE CAPTURE ON IDS			
25	01/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
23	11/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	11/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	08/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	08/03/2004	REFERENCE CAPTURE ON IDS			
19	08/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	09/20/2004	APPLICATION RETURN FROM OIPE			
17	09/21/2004	APPLICATION IS NOW COMPLETE			
16	09/20/2004	APPLICATION RETURN TO OIPE			
15	09/20/2004	APPLICATION RETURN FROM OIPE			
14	09/20/2004	APPLICATION RETURN TO OIPE			
13	09/20/2004	APPLICATION RETURN FROM OIPE			
12	09/20/2004	APPLICATION IS NOW COMPLETE			
11	09/20/2004	APPLICATION RETURN TO OIPE			
9	08/25/2004	APPLICATION DISPATCHED FROM OIPE			
8	08/26/2004	APPLICATION IS NOW COMPLETE			
7	08/03/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	08/03/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/04/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/16/2004	CLEARED BY OIPE CSR			
3	03/16/2004	CASE CLASSIFIED BY OIPE			
2	02/12/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/05/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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